

# LEGAL NOTICE

## Summary of Proposed Rulemakings

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### **PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES**

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

*The written comment deadline is July 23, 2008, unless otherwise listed.  
(Temp & Prop) indicates the rule is both temporary and proposed.  
\*\* Indicates that a public hearing has been scheduled.*

#### **IDAPA 02 - DEPARTMENT OF AGRICULTURE P.O. Box 790, Boise, ID 83701-0790**

**02-0214-0801, Rules for Weights and Measures.** (Temp & Prop) Adopts by reference the date specific standard ASTM D 4814-07a, "Standard Specification for Automotive Spark-Ignition Engine Fuel" and the 2008 edition of NIST Handbook 44, Specifications, Tolerances and Other Technical Requirements for Weighing and Measuring Devices; and states that the specifications for gasoline blended with ethanol be no more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. EPA.

#### **IDAPA 07 - DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642**

**07-0105-0801, Rules Governing Examinations -- Building Safety.** Statistics for the past 2 years show an unusually high pass rate for persons taking the Electrical Contractor examination, including 100% on several occasions. These statistics demonstrate that the minimum pass percentage may be too low. To remedy this situation, the Electrical Board has approved an increase in the minimum pass rate. This proposed rulemaking increases the minimum pass percentage for the Electrical Contractor examination from 70% to 75%.

**07-0501-0801, Rules of the Public Contractors License Board.** (Temp & Prop) Sections 54-1910 and 54-1911, Idaho Code, authorize the Public Works Contractors License Board to establish, by rule, such written or oral examinations it deems necessary to administer to applicants for public works contractor licenses. Currently, the Board has no such rule. This rulemaking is intended to address this deficiency and come into compliance with the controlling statute. The rulemaking establishes requirements and procedures for licensing examinations and it establishes a licensing and renewal fee for a new classification of license.

#### **IDAPA 12 - DEPARTMENT OF FINANCE PO Box 83720, Boise, ID 83720-0031**

**12-0110-0801, Rules Pursuant to the Idaho Residential Mortgage Practices Act.** In Section 26-3105(2), Idaho Code, the Idaho Legislature determined that a uniform multistate administration of an automated licensing system for mortgage brokers, mortgage lenders, and mortgage loan originators is consistent with both the public interest and the purposes of the Idaho Residential Mortgage Practices Act, chapter 31, title 26, Idaho Code (the Act). In Section 26-3105(2)(b) of the Act, the Legislature authorized the Director of the Idaho Department of Finance to establish by rule such new requirements as are necessary for the state of Idaho to participate in a uniform multistate licensing system upon the Director's finding that such new requirements are consistent with both the public interest and the purposes of the Act. The Director found that the requirements set forth in the proposed rules are consistent with the public interest and the purposes of the Act, and that they establish requirements necessary for the state of Idaho to participate in the Nationwide Mortgage Licensing System (NMLS), which became operative on January 1, 2008. The proposed rules also include amendments to existing rules regarding continuing professional education for licensees under the Act, which amendments establish uniformity with continuing professional education standards of other states; extend the

time to apply to the Department for continuing education credit after course completion; and add a category of approved courses. The Director found that the proposed rules concerning continuing professional education standards for licensees under the Act were necessary to execute, enforce, and effectuate the purposes of the Act. The proposed rules were adopted as temporary rules, effective January 1, 2008. Such temporary rules were approved by the 2008 Idaho Legislature. The Department now seeks to make such temporary rules permanent rules, which is the purpose of this proposed rulemaking.

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE  
PO Box 83720, Boise, ID 83720-0036**

**16-0202-0801, Rules of the Idaho Emergency Medical Services Physician Commission.** (Temp & Prop) To best protect the public's health and safety, the Emergency Medical Services (EMS) Physician Commission is amending their standards manual which is incorporated by reference in this chapter of rules. Included in the manual is the definition of EMS "scope of practice" which lists the medications, devices, and clinical interventions that EMS personnel can use to treat patients at emergency scenes and in ambulances. The updated version of the manual adds several important medications and clinical interventions that can be used by EMS personnel after additional training and permission of their medical director. Section 004 (Incorporation by Reference) of these rules is being revised with the updated edition number (2008-1) of the EMS Physician Commission Standards Manual. This revision will ensure the updated manual has the force and effect of law. Copies of the 2008-1 edition of the EMS Physician Commission Standards Manual will be available to the public on the effective date of this rulemaking.

**16-0506-0801, Criminal History and Background Checks.** (Temp & Prop) The Department conducts criminal history and background checks. The actual cost to complete these checks is the responsibility of the applicant, under Section 56-1004A(5), Idaho Code. The Department is increasing the fee amount for a criminal history and background check to cover current costs in compliance with statute. These rules are also being amended to add two additional 5-year disqualifying crimes to better protect vulnerable adults and children.

**IDAPA 17 - INDUSTRIAL COMMISSION  
PO Box 83720, Boise, ID 83720-0041**

**17-0204-0801, Administrative Rules of the Industrial Commission Under the Workers' Compensation Law - Benefits.** (Temp & Prop) Section 72-1104, Idaho Code, part of the Peace Officer and Detention Officer Temporary Disability Act enacted in 2007, requires the Industrial Commission to adopt rules governing reimbursements under this law. The amendments provide for application procedures for eligible employers to seek reimbursement from the fund. Required sections are being added.

**17-0208-0801, Miscellaneous Provisions.** (Temp & Prop) Clarifies that these rules are applicable to all entities providing services to injured workers even as agents; changes the definition of a medical "provider" to include any person or entity acting on behalf of a provider with respect to medical charges payable under this rule; makes a required adjustment each fiscal year, mandated by Section 72-803, Idaho Code, by the amount determined by the Director of Health and Welfare in accordance with the procedure set out in Section 56-136, Idaho Code; and adjusts the conversion factors paid to medical providers by the inflation factor percentage determined by the Director of Health and Welfare for Medicaid covered services.

**IDAPA 18 - DEPARTMENT OF INSURANCE  
PO Box 83720, Boise, ID 83720-0043**

**18-0129-0801, Restrictions on Discretionary Clauses and Maximum Benefit Limits in Health Insurance Contracts.** New rule defines and prohibits the use of discretionary clauses in health insurance contracts and prohibits insurers from reducing the lifetime maximum benefit available under a health insurance contract by amounts paid under a separate health insurance contract. Discretionary clauses are clauses in insurance contracts that purport to give the insurer the sole discretion to determine an insured's eligibility for benefits under the insurance contract.

**18-0177-0801, Actuarial Opinion and Memorandum Rule.** Section 41-612(12)(d)(iv), Idaho Code, permits the Director to rely on a foreign or alien insurer's home state regulator regarding the preparation and filing of an actuarial report. The change provides an exemption from filing with Idaho a report known as the Regulatory Asset Adequacy Issues Summary (the "RAAIS") for a foreign or alien insurer whose state of domicile imposes reporting requirements substantially similar to those imposed by Idaho. The RAAIS is not part of the NAIC's electronic filings due to its confidential nature. Therefore, insurers must file a paper copy with the Idaho Department of Insurance, or an electronic copy, which is printed. The Department does not utilize an actuary to review RAAIS reports filed by non-

domestic insurers, thus this filing requirement is largely perfunctory. The rule change is proposed to take effect December 31, 2008 so the exemption can be implemented for the 2008 annual financial filing period, thus reducing the use and cost of paper and expense of mailing for affected insurers.

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**320 Collins Road, Boise, ID 83702**

**21-0104-0801, Rules Governing the Idaho State Veterans Cemetery.** Defines the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs maintains the ability of applicants to determine the fee quickly while allowing the Division to recoup the full amount of federal funds available for its services. The rule changes clarify the fees for interment, disinterment, and reinterment as the amount of reimbursement paid by the United States Department of Veterans Affairs.

**IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**  
**1109 Main St., Ste. 220, Boise, ID 83702**

**24-0201-0801, Rules of the Board of Barber Examiners.** (Temp & Prop) Based on changes made to Title 54, Chapter 5, Idaho Code, in the 2008 legislative session, the Board may contract with a third party examination administrator to save costs for the Board and to provide monthly testing for the applicants. Rules requiring student registration are being deleted as there is no statutory authority for registration. High school equivalency is being expanded to include degrees from institutes of higher learning; and a definition for barber instructor is being corrected to comply with statute.

**IDAPA 35 - STATE TAX COMMISSION**  
**PO Box 36, Boise, ID 83712**

**35-0103-0801, Idaho Property Tax Administrative Rules.** Rules 205 and 210 are being stricken and replaced with a new Rule 205 to clarify definitions as set forth by House Bill 599A in order to give assessors guidance in distinguishing between real and personal property. Comment by: 8/27/08.

***NEGOTIATED RULEMAKING MEETINGS ARE SCHEDULED FOR THE FOLLOWING:***

***DEPARTMENT OF AGRICULTURE***

**02-0214-0802, Rules for Weights and Measures**  
**02-0609-0801, Invasive Species Rules (New Rule)**

***DEPARTMENT OF EDUCATION***

**08-0202-0803, Rules Governing Uniformity**

***BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS***

**10-0101-0801, Rules of Procedure**  
**10-0102-0801, Rules of Professional Responsibility**  
**10-0103-0801, Rules of Corner Perpetuation and Filing**  
**10-0104-0801, Rules of Continuing Professional Development**

***DEPARTMENT OF LANDS - BOARD OF SCALING PRACTICES***

**20-0602-0801, General Rules, Licensing and Check Scales of the Idaho Board of Scaling Practices**

Please refer to the Idaho Administrative Bulletin, **July 2, 2008, Volume 08-7** for notices and text of all rulemakings, Senate and House Concurrent Resolutions, Omnibus Rulemaking Notice of Final and Temporary Rules, public hearing schedules, Governor's executive orders, and agency contact information.

***Issues of the Idaho Administrative Bulletin can be viewed at the county law libraries or online.***

To view the Bulletin or Code or for information on purchasing the Bulletin and other rules publications, visit our website at [www.adm.idaho.gov/adminrules/](http://www.adm.idaho.gov/adminrules/) or call (208) 332-1820 or write the Dept. of Administration, Office of Administrative Rules, 650 W. State St., Room 100, Boise, ID 83720-0306.